





TO: Workforce Investment Board Chairperson
Workforce Investment Board Director
Regional Workforce Chairpersons
Regional Operators
Regional Coordinators

FROM: Andrew J. Pence 
Commissioner

THROUGH: Teresa Linn Voors 
Legal Counsel and Director of Policy

DATE: May 15, 2007

SUBJECT: DWD Policy 2006-22
Nondiscrimination Requirements of the Workforce Investment Act (WIA)

Purpose

To communicate the nondiscrimination and equal opportunity requirements of the Workforce Investment Act and to denote the responsibilities for entities receiving Workforce Investment Act funding.

Rescission

DWD Policy 2004-05, Nondiscrimination Requirements of the Workforce Investment Act, issued June 14, 2004.

Contents

Section 188 of the Workforce Investment Act prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I – financially-assisted program or activity. The following requirements are taken from regulations at 29 Code of Federal Regulations (CFR) Part 37 and must be incorporated into the systems and practices of all recipients for assurances of nondiscrimination. Any program or activity that receives federal financial assistance under WIA Title I is a recipient and therefore subject to these requirements.

- **DESIGNATION OF EQUAL OPPORTUNITY OFFICER**

Every recipient must designate an Equal Opportunity officer ("EO officer") except small recipients and service providers. A small recipient is defined as serving fewer than 15 beneficiaries during the grant year and employing fewer than 15 employees on any given day during the grant year.

The EO officer must be:

- (1) a senior level employee;
- (2) qualified in education, experience and training;
- (3) in a position that would not pose a conflict of interest; and
- (4) staffed sufficiently to carry out his/her responsibilities.

Each WIA grant recipient must designate and publish the name and contact information for its local EO Officer. Such EO designation shall be communicated to the State EO Officer in the Legal Department at 10 North Senate Avenue, Indianapolis, IN 46204 by May 31 of each year.

The State EO Officer will be responsible for providing training and technical assistance to local EO Officers. The local EO Officers will handle complaints of discrimination and facilitate the assurances of the nondiscrimination requirements.

- **NOTICE AND COMMUNICATION REQUIREMENTS**

Each WIA grant recipient must provide initial and continuing notice that it does not discriminate on any prohibited ground.

Regional Operators and Workforce Investment Board Directors must ensure that "Equal Opportunity Is The Law" posters are prominently displayed for customers entering WorkOne Centers and WorkOne Express sites.

This notice must be provided to registrants, applicants, and eligible applicants/registrants; participants; applicants for employment and employees; unions or professional organizations that hold collective bargaining or professional agreements with the WIA grant recipient; sub-recipients that receive WIA Title I funds from the recipients; and members of the public, including those with impaired vision or hearing. The WIA grant recipient must also ensure that communications with individuals with disabilities are as effective as communication with others.

Participants in WIA programs are to provide acknowledgement of the notice, either electronically or by their signature to the notice where case files are maintained. The notice must also be provided in languages other than English where need is determined.

All brochures, pamphlets and other publications which promote WIA programs must include the following language: "This WIA Title I-funded program/activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities." Where a telephone number is provided, the materials must also include a TDD/TTY or relay service number.

- **REVIEW ASSURANCES, JOB TRAINING PLANS, CONTRACTS, POLICIES**

Each applicant for financial assistance under Title I of WIA, as defined in §37.4, must include the following assurance language:

“As a condition to the award of financial assistance from the Department of Labor under Title I of WIA, the grant application assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Investment Act of 1998 (WIA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I-financially assisted program or activity;

Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin;

Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIA Title I financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.”

The assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract or other arrangement whereby federal financial assistance under Title I of the WIA is made available.

- **UNIVERSAL ACCESS**

WIA grant recipients must take appropriate steps to ensure that they are providing universal access to the WIA Title I-financially assisted programs and activities. These steps should involve reasonable efforts to include members of both sexes, various racial and ethnic groups, individuals with disabilities and individuals in differing age groups.

Reasonable efforts may include contacts with community groups, schools, organizations that provide services to the disabled and also minority organizations. The Workforce Investment Boards and Regional Workforce Boards must have a strategy for meeting this requirement and be prepared to provide such information upon request to the state EO Officer.

- **COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973**

In providing any aid, benefits services or training under a WIA Title I-funded program or activity, a recipient must not, directly or through contractual licensing or other arrangements, deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefits, services or training on the basis of disability.

WIA grant recipients must provide for reasonable accommodations, modifications or programs and architectural accessibility for individuals with disabilities. Programs/activities must be administered in the most integrated setting. Communications with persons with disabilities must be as effective as communications with others.

WIA grant recipients must also make reasonable modifications in policies, practices or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program or activity.

- **DATA AND INFORMATION COLLECTION AND MAINTENANCE**

Each WIA grant recipient must collect and maintain records on applicants, registrants, eligible applicants/registrants, participants, those terminated, employees and applicants for employment to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of WIA. Each WIA grant recipient must record the race/ethnicity, sex, age, and where known, disability status of the specified groups.

The records must be stored in a manner that ensures confidentiality and used only for purposes of recordkeeping and reporting, determining eligibility for WIA Title I-funded programs or activities or other uses authorized by law.

Each WIA grant recipient must maintain records for a period of not less than three years from the close of the applicable program year. If any litigation, claim, negotiation, audit or other action involving the records has been started before the three-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

WIA grant applicants and recipients must notify the State EO Officer of any administrative enforcement actions or lawsuits filed regarding discrimination.

- **MONITORING RECIPIENTS FOR COMPLIANCE**

The Indiana Department of Workforce Development has established and published procedures for the periodic monitoring of programs and activities operated under WIA Title I for compliance with the nondiscrimination requirements (Policy 2005-14, dated April 10, 2006).

The procedures will provide for:

- (1) a statistical analysis of records and data;
- (2) an investigation of any significant differences noted in the data analysis;
- (3) an assessment to determine whether the recipient has fulfilled its administrative obligations under Section 188, e.g. recordkeeping and notice requirements;
- (4) obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance is found.

- **CORRECTIVE ACTIONS / SANCTIONS**

Where violations of the WIA Section 188 are found and voluntary compliance has not been achieved, DWD may implement the sanction procedures as provided by DWD policy.

Review Date

March 15, 2009

Ownership

Legal Support

Effective Date

Upon Receipt

Action

The Regional Operators and Workforce Investment Board Director are to designate and publish the name and contact information of its EO Officer by May 31, of each year, including the year 2007.

Such EO designation shall be communicated to the State EO Officer in the Legal Support Department at the Indiana Department of Workforce Development, 10 North Senate Avenue, Indianapolis, IN 46204 or to jhoward@dwd.in.gov.

Documented assurances are required to give reasonable guarantee that all WIA grant recipients will comply and are complying with nondiscrimination and equal opportunity provisions of WIA.

The State EO Officer will provide guidance on Methods of Administration for these provisions.